

JUN 15 2017

U. S. DISTRICT COURT
EASTERN DISTRICT OF MO
CAPE GIRARDEAU

Plaintiff,

V.

Defendant.

))))))))

No.

1:17CR00054RLW-ACL

) Title 18 U.S.C. § 2252A(a)(5)(B)
) Title 18 U.S.C. § 2252A(b)(2)

The Grand Jury charges that:

At all times pertinent to the charges in this indictment:

1. Federal law defined the term

- (a) "minor" to mean any person under the age of eighteen years (18 U.S.C. § 2256(1));
- (b) "sexually explicit conduct" to mean actual or simulated--
- (i) sexual intercourse, including genital-genital, anal-genital, oral-genital, oral-anal, whether between persons of the same or opposite sex,
 - (ii) bestiality,
 - (iii) masturbation,
 - (iv) sadistic or masochistic abuse, or
 - (v) lascivious exhibition of the genitals or pubic area of any person (18 U.S.C. § 2256(2)(A));
- (c) "computer" to mean an electronic, magnetic, optical, electrochemical or

other high speed data processing device performing logical, arithmetic or storage functions, including any data storage facility or communications facility directly related to or operating in conjunction with such device. (18 U.S.C. § 2256(6));

(d) "child pornography" to mean any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where-

(A) the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct; or

(C) such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.

(18 U.S.C. § 2256(8)).

2. The "Internet" was, and is, a computer communications network using interstate and foreign lines to transmit data streams, including data streams used to store, transfer and receive graphic files.

3. On or about February 10, 2010, in the United States District Court for the Eastern District of Missouri, in case number 4:09-CR-00628-CEJ, the defendant pleaded guilty to the offense of Possession of Child Pornography in violation of 18 U.S.C. § 2252A(a)(5)(B), and was sentenced for said offense on or about May 11, 2010.

4. On or about April 14, 2017, in Cape Girardeau County, within the Southeastern Division of the Eastern District of Missouri,

ANDREW J. SPALLEK,

the Defendant herein, did knowingly access with intent to view and attempted to access with

intent to view material that contained an image of child pornography that had been shipped or transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer, or that was produced using materials that have been mailed, shipped, or transported in or affecting interstate or foreign commerce by any means, including by computer, in violation of Title 18, United States Code, § 2252A(a)(5)(B) and punishable under Title 18, United States Code, § 2252A(b)(2).

A TRUE BILL.

FOREPERSON

CARRIE COSTANTIN
Acting United States Attorney

John N. Koester, Jr., #52177MO
Assistant United States Attorney